

□

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A JUDGE, NO. 01-244
(Judge Charles W. Cope)

Case No. SC01-2670

/

SPECIAL COUNSEL'S MOTION TO COMPEL PRODUCTION

Pursuant to Florida Judicial Qualifications Commission Rule 12(a) and Rule 1.380, Florida Rules of Civil Procedure, the Special Counsel hereby moves for an order compelling discovery and states:

1. On December 11, 2001, the Special Counsel served his Request for Production of Documents and Things on the Respondent. A true and correct copy of this request is attached hereto as **Exhibit A**. Request No. 9 seeks production of "any and all documents that relate to any consultation, diagnosis, or treatment relating to [Respondent's] actual use or abuse of alcohol or drugs or allegations of such use or abuse at any time in [Respondent's] life."

2. On January 10, 2001, the Respondent served his Response to Request to Produce. A true and correct copy of this response is attached hereto as **Exhibit B**. The response to Request No. 9 states, "Already produced. To the extent additional records exist will be produced [sic]."

3. Counsel for the Respondent has stated that not all responsive documents not already produced will be produced at the Respondent's deposition, which is set for March 4, 2002.

4. The Special Counsel needs to review these documents ahead of time to prepare for Respondent's deposition on March 4, 2002.

5. By letter dated February 8, 2002, the Special Counsel requested Respondent's counsel to produce the documents by February 14, 2002. The Special Counsel advised that if the documents were not produced, he would have to file a motion to compel.

6. To date, counsel for Respondent has neither produced the documents nor provided a date certain prior to the March 4 deposition when the documents will be produced.

WHEREFORE, the Special Counsel respectfully requests the Hearing Panel to enter an order compelling Respondent to produce any and all documents that relate to any consultation, diagnosis, or treatment relating to Respondent's actual use or abuse of alcohol or drugs or allegations of such use or abuse at any time in Respondent's life no later than March 1, 2002.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by facsimile and regular U.S. mail to: **Louis Kwall, Esq.**, Kwall, Showers & Coleman, P.A., 133 N. St. Harrison Ave., Clearwater, Florida 33755; **Robert W. Merkle, Jr., Esq.**, Co-Counsel for Respondent, 5510 W. La Salle Street, #300, Tampa, Florida 33607-1713; **Judge James R. Jorgenson**, Chair of the Judicial Qualifications Commission Hearing Panel, 3rd District Court of Appeal, 2001 S.W. 117th Ave., Miami, Florida 33175-1716; **John Beranek, Esq.**, Counsel to the Hearing Panel of the Judicial Qualifications Commission, P.O. Box 391, Tallahassee, Florida 32301; **Brooke S. Kennerly**, Executive Director of the Florida Judicial Qualifications Commission, 1110 Thomasville Road, Tallahassee, Florida 32303; **Thomas C. MacDonald, Jr., Esq.**, General Counsel to the Investigative Panel of the Judicial Qualifications Commission, 100 North Tampa Street, Suite 2100, Tampa, Florida 33602 this 20th day of February, 2002.

By:
John S. Mills, Esq.
Florida Bar No. 0107719
Special Counsel
Florida Judicial Qualifications Commission
Foley & Lardner
200 Laura Street
Jacksonville, Florida 32201-0240
(904) 359-2000 Telephone

□